

## **REMARKS**

Claims 1-24 have been cancelled. New Claims 25-37 have been added. Basis for the claims can be found throughout the specification, claims and drawings as originally filed.

### **REJECTION UNDER 35 U.S.C. SECTION 112, second paragraph**

The Examiner had rejected the claims under 35 U.S.C. Section 112, second paragraph, alleging them to be indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has cancelled the claims and believes the Examiner's rejection to be moot.

The Examiner has objected to the drawings and has indicated that the conical members are not shown. Applicant believes that the conical members are shown Figure 5, elements 94 and 96, and that this should overcome the Examiner's objection.

### **REJECTION UNDER 35 U.S.C. SECTION 102 (b) and 103(a)**

Applicant has cancelled Claims 1-24 and believes the Examiner's Section 102(b) and Section 103(a) rejections to be moot.

New Claim 25 defines a power tool which includes a leveling mechanism. The leveling mechanism comprises a light emitting device coupled with the power tool housing. The light emitting device illuminates to indicate to a user that the power tool is in a horizontal or vertical position.

The art cited by the Examiner, specifically Jansky and Bein et al, fail to disclose or suggest Applicant's invention. Jansky illustrates a bubble-type of level positioned on

a drill. Bein et al illustrates an independent leveling device. There is no motivation or suggestion to combine these two references. The Examiner is utilizing hindsight in an attempt to combine the two references. Accordingly, Applicant believes that the Examiner is misapplying the references under Section 103.

Accordingly, Applicant believes Claims 25-37 to be patentably distinguishable over the references cited by the Examiner.

### CONCLUSION

In light of the above remarks, Applicant would submit that all pending claims are in condition for allowance. Accordingly, Applicant respectfully requests the Examiner to pass the case to issue at her earliest possible convenience.

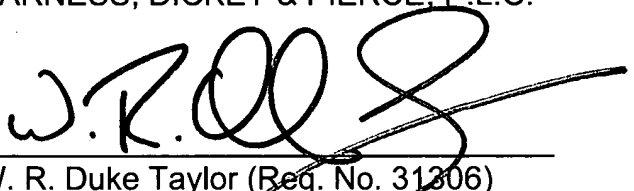
Should the Examiner have any questions regarding the present application, she should not hesitate to contact the undersigned at (248) 641-1600.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

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